

REMARKS

Applicants have reviewed the Application in light of the final Office Action dated November 26, 2008. Claims 1-35 are pending in the application. Claims 17-23 and 32-35 were previously withdrawn from consideration. Claims 1-16 and 24-31 stand rejected. Applicants respectfully request reconsideration of the application in accordance with the following remarks.

***37 CFR 1.105 – Requirement for More Information***

The Examiner argues that September 8, 2008 Declaration of Lydia Chase under 37 CFR 1.132 ("the September Declaration") indicated that there is an earlier version of the HomeTracker Lender Center Workflow Manual, Version 2.0 ("the HomeTracker Manual"). The Examiner argues that this information is relevant and reasonably necessary to the examination of the application and, therefore, Applicant and Assignee of this application are required under 37 CFR 1.105 to provide additional information with regard to the earlier version of the HomeTracker Manual.

Applicants note the January 26, 2009 Declaration of Lydia Chase under 37 CFR 1.132 ("the January Declaration"), submitted concurrently herewith. As detailed in the January Declaration, no electronic or paper copy of a version of the HomeTracker Manual, earlier than the version printed April 13, 2004 and submitted to the Office in accordance with the Information Disclosure Statement of April 29, 2004 ("the April IDS"), is known to be available to the Applicants or the Assignee of the Application. The copy of the HomeTracker Manual, submitted to the Office with the April IDS, is a print-out of the original, electronic version of the HomeTracker Manual. It is the practice of the Assignee of this application to make modifications and updates directly to the original, electronic copy of the HomeTracker Manual, thereby overwriting previous versions of the document. As noted in the January Declaration, the original, electronic copy of the HomeTracker Manual was modified and saved to incorporate details related to modifications made to the version of HomeTracker Lender Center made commercially available in April 2003. The "January 20, 2003" date listed on the page 1 of the HomeTracker Manual was mistakenly not modified. *See* September Declaration. As a result,

Applicants are unable to furnish a copy of an "earlier version" of the HomeTracker Manual, as any earlier versions of the document have been overwritten, the earliest version available to the Applicants and Assignees of this Application being the copy of the HomeTracker Manual submitted to the Office in accordance with the April IDS.

However, in response to the 1.105 Requirement for More Information, Applicants submit a document entitled HomeTracker Lender Center Training Update for Countrywide ("the Training Update") dated April 3, 2003 (Appendix A). As detailed in the January Declaration, the Training Update "provide[s] information concerning and [was] made available in connection with the commercial release of Lender Center 2.0 and a publicly released version of the misdated HomeTracker Manual." "The Training Update was not published or released to the public until, at the earliest, April 3, 2003." *Id.* The Training Update, together with the January Declaration, corroborate the factual representations of the September Declaration, namely that the misdated HomeTracker Manual, submitted in the April IDS, was not available to the public prior to April 1, 2003 and that the Lender Center 2.0 software product was not released commercially, offered for sale, or otherwise made available to the public until after April 1, 2003.

#### *Section 102 Rejection*

Claims 1-13, 15-16 and 24-30 stand rejected under 35 U.S.C § 102(b) as being anticipated by the HomeTracker Lender Center Workflow Manual, Version 2.0 ("the HomeTracker Manual").

Applicants note, as a preliminary matter, that the Examiner has deemed the September Declaration insufficient to overcome the rejections based on the HomeTracker Manual. It is asserted that the September Declaration is insufficient "because: a) the applicant did not provide corroborating evidence to show 'January 20, 2003' is misdated for the HomeTracker manual; [and] b) the applicant stated the HomeTracker manual was not released to the public until April 1, 2003. However, in the front page of the manual, it printed "...for any purpose other than training for authorized users...". It is not clear who is [sic] the authorized users." Office Action at ¶ 2, p. 2. Consequently, the Examiner has required more information from Applicants, under 37 CFR 1.105, pertaining to earlier versions of the HomeTracker Manual. In light of the January Declaration and the Training Update submitted concurrently herewith, Applicants assert that

evidence has been provided responsive to the 37 CFR 1.105 Requirement for Information and corroborating the facts asserted in the September Declaration.

Moreover, Applicants assert that the September and January Declarations, together with the Training Update, establish that the misdated HomeTracker Manual does not qualify as prior art on 35 U.S.C. 102(b). The HomeTracker Manual is a document created by and under control of the Assignee of the Application. Previous versions of the document have been overwritten by the version submitted in the April IDS. It is for this reason that the incorrect "January 20, 2003" date appears in the HomeTracker Manual. The HomeTracker Manual, relied upon in the rejection, was not published or otherwise made available to the public prior to April 1, 2003 and the Lender Center 2.0 software product was not released commercially, offered for sale, or otherwise made available to the public until after April 1, 2003. Accordingly, the "authorized users of HomeTracker Lender Center" are those eventual users of the HomeTracker Manual and corresponding Lender Center product following their respective release to the public. As a result, the simple mention of "authorized users," in this case, is irrelevant. Further, the Training Update corroborates the HomeTracker Manual's and Lender Center 2.0's April 2003 release date, in that the publication of the Training Update was in connection with the public and commercial release of the HomeTracker Manual and Lender Center 2.0, as described in the HomeTracker Manual. Accordingly, Applicants respectfully assert that the HomeTracker Manual does not qualify as prior art under 35 U.S.C. 102(b) and thus does not show that the subject matter of the claims were described in a printed publication or in public use or on sale in this country, more than one year prior to the date of the Application.

Moreover, there is simply no evidence that the HomeTracker Manual was published more than a year before the filing date of this application. The appearance of a date on the HomeTracker Manual submitted in the April IDS does not demonstrate that the document was actually published on that date, particularly given the fact that it is entirely common for entities to possess copies of unpublished versions prior to the date of actual publication. Based on the absence of additional evidence or references supporting the Office's assertions, Applicants assert that the HomeTracker Manual does not anticipate the claims. Further, the inclusion of the HomeTracker Manual in the April IDS does not constitute an admission that the HomeTracker Manual is, or is considered by Applicants to be material to patentability. The "mere submission

of an IDS to the USPTO does not constitute the patent applicant's admission that any reference in the IDS is material prior art." *Abbott Laboratories v. Baxter Pharm. Prod., Inc.*, 334 F.3d 1274, 1279 (Fed. Cir. 2003); *see also* 37 C.F.R. § 1.97(h). As a result, Applicants respectfully request withdrawal of the rejection.

***Claim Rejections Under 35 U.S.C. § 103***

Claims 14 and 31 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over HomeTracker in view of Official Notice of U.S. Patent No. 5,696,907 to Tom ("Tom"). *Tom* discloses a system for performing risk analysis on credit applications using a neural network. *Tom* fails to disclose each and every limitation of either Claim 14 or 31. For example, *Tom* fails to teach, suggest, or disclose requests for approval relating to management of real property and identifying, for each request, at least one type of data item to be provided by the user, wherein the at least one type of data item identified for each request is based on a type associated with the request. Accordingly, and in light of the arguments above relating to the HomeTracker Manual, Applicants respectfully assert that the references cited either fail to anticipate or fail to teach, suggest, or disclose each and every limitation of Claims 14 and 31. As a result, Applicants respectfully request withdrawal of the rejection to Claims 14 and 31.

CONCLUSION

Applicants have made an earnest attempt to place this case in condition for allowance. It is believed that all of the pending claims have been addressed. Applicants note that the absence of a reply to a specific rejection, issue or comment does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment. For the foregoing reasons, and for other reasons clearly apparent, Applicants respectfully request full allowance of all claims.

If the present application is not allowed and/or if one or more of the rejections is maintained, Applicants hereby request a telephone conference with the Examiner and further request that the Examiner contact the undersigned attorney to schedule the telephone conference.

Applicants believe no fees to be due, however, the Commissioner is hereby authorized to charge any fees or credit any overpayments to deposit account 06-1050.

Respectfully submitted,

Date: January 26, 2009

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**APPENDIX A**



## **Lender Center**

### ***Training Update for Countrywide***

These materials include confidential information that cannot be disclosed, used, or duplicated, in whole or in part, for any purpose other than training for authorized users of HomeTracker™ Lender Center

**April 3, 2003**  
**Version: 2.0**

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## P&P Screen Updates

Several updates have been made to the P&P screen to improve usability.

### P&P Services

The P&P screen has been reformatting to help you provide a more complete request the first time. The changes to the screen include:

- A new list of services in the drop-down. The list has been greatly expanded to allow you to choose a specific description that is more appropriate for the request that you are submitting.
- Bid 1 and Bid 2 have been split into two lines allowing you to provide separate descriptions if the bids differ, as well as to upload contractor bids separately as attachments.
- The Amount field has been moved to the end of the line item to allow you to enter all the details about the service before entering the Bid Amount.
- The Comments field has been split into three sections: Quantity, Dimensions and Comments. When you choose a service from the drop-down an arrow (>) will indicate which of the fields should be completed to provide the appropriate information to the M&M Contractor. In the example below, the service "Exterior - Debris" requires that the user enter Quantity (of cubic yards), a description in the Comments field and a 2<sup>nd</sup> Bid.

Service	Description	Dimensions	Comments	Amount	Approved Bid	Approved Cost
1 Debris-Debris	1	x	>	\$1	\$1	\$1
2	1	x	>	\$1	\$1	\$1

*NOTE: Appendix A below provides a general guide as to what information the M&M contractor is looking for in the required description fields.*

If the request you are submitting includes more than 10 services, you can click on the [Add More Lines] button at the bottom of the Requested Service section after you have selected 10 services from the existing drop-downs. This will add 3 additional lines. After entering those 3 services, if you need more, you can click on [Add More Lines] again.

**Adding 2<sup>nd</sup> Bids after Submission**

You will now be able to upload a 2<sup>nd</sup> Bid after submitting a 1<sup>st</sup> Bid to the M&M Contractor for approval. The process is as follows:

**Adding the 1<sup>st</sup> Bid:**

- Select a service from the drop-down
- Enter the required information indicated by the arrow (>) for the 1st bid.
- [Save] the request (without submitting).
- The Add Attachment icon (>) now becomes available for every service you are requesting.
- Upload the contractor's bid on the Bid 1 line by clicking on the Add Attachment icon
- (>) on that line.
- Submit your request by checking the "Submit for Review" checkbox at the top of the screen and then click on [Save]. You will be prompted to enter your password to submit the request to the M&M Contractor.

**Adding the 2<sup>nd</sup> Bid:**

- Note that the Bid 2 line is still enabled to allow you to add the 2nd bid at any point after submission until the M&M contractor has reviewed the request and provided a response.
- When you are ready to add the 2nd bid, enter the appropriate information on the line identified for Bid 2 and upload the contractor's bid as described above by clicking on the Add Attachment icon (>) on the Bid 2 line.
- Click on [Save]. You will be prompted to enter your password, since the request has already been submitted to the M&M Contractor.
- You will see the date you updated your request indicated next to the Bid 2 line.
- Click on View Attachments icon (>) at the top of the screen and you will see that the Bid 1 and Bid 2 attachments are specified with the appropriate service request.

**Resubmitting Partial P&P Denials**

You will now be able to resubmit a request where some overallowable items have been denied (needing more information), but, the overall request has been approved. In this scenario, the Resubmit Request link will be available in the P&P screen. By clicking on the Resubmit Request link, the P&P request will update to allow you to add more information, including 2<sup>nd</sup> bids to the denied items. The items that were already approved will be displayed as read-only.

Once you update the request, you will need to click on the "Submit for Review" check box and [Save] to complete the resubmission of your request.

Note: You will continue to receive email notifications about approved and denied requests as follows:

- Approval emails - will indicate P&P requests where all items on the request were approved.
- Denied emails - will indicate P&P requests where all or some of the items were denied (in both instances, you will now be able to resubmit).

## Tracking Expected Conveyance Date

The following changes have been made to help users track expected conveyance dates when making Extension requests:

### Property Summary Screen

When a new property is entered on the **Property Summary** screen, and the user did not enter an "Original Expected Conveyance Date", the system will automatically calculate "Original Expected Conveyance Date" as 30 days past the latter of "Vacancy Date", "Deed Recorded Date" or "Foreclosure/Trust Sale Date". Once saved, this date can still be updated at any time until the first Extension has been requested.

### Extension Screen

Two new fields have been added to the **Extension** screen: "Expected Conveyance Date" and "Reason for Change to Expected Conveyance Date". When an Extension is requested, the system will populate the "Current Expected Conveyance Date" from the **Property Summary** screen into "Expected Conveyance Date". If this date is still valid, you can continue with filling out the request form.

If you make a change to the "Expected Conveyance Date", you will be required to enter a reason into the "Reason for Change to Expected Conveyance Date" field. By making a change to this date, you are updating "Current Expected Conveyance Date" on the **Property Summary** screen.

If the M&M Contractor approves the days requested or some portion of them, "Current Expected Conveyance Date" will get updated by the addition of the approved days. If a subsequent Extension is needed, the process can be repeated to ensure each Extension request is made based on the most current information.

Additionally, if "Deed Recorded Date", "Vacancy Date" and/or "Foreclosure/Trust Sale Date" are updated on the **Extension** screen, the **Property Summary** screen will be automatically updated. Future extensions will then be pre-populated with the most current information.

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## Cancelling Requests

If a P&P or Extension request is made before conveyance and the property is subsequently conveyed before the requests are responded to by the M&M contractor, the requests will be automatically cancelled by the system. You will see a statement on the top of the request that indicating the request was cancelled.

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## Generating Tasks

You will now be able to generate a Task for the M&M Contractor staff through the existing Task function. Click on the Notes icon ( ) from any case specific screen, enter your Task, enter a Due Date and then click on the Search icon ( ) to select the appropriate user to whom you wish to send the task. [Save] your Task. This action will put the Task on the M&M Contractor's home page to facilitate and document communication about the property.

## Appendix A

Service	Dimensions	Quantity	Comments	2 Bids Needed
Appliances-Clean			Type and Location	Yes
Appliances-Remove			Type and Location	
Auto Removal				
Cap-Gas Lines		Quantity		
Cap-Water Lines		Quantity		
Cap-Wires		Quantity		
			Description (type/cause) and Date Discovered	
Damage Repair-Fire	Dimensions		Description (type/cause) and Date Discovered	
Damage Repair-Freeze	Dimensions		Description (type/cause) and Date Discovered	
Damage Repair-Plumbing	Dimensions		Description (type/cause) and Date Discovered	
Damage Repair-Vandalism	Dimensions		Description (type/cause) and Date Discovered	
Damage Repair-Water	Dimensions		Description (type/cause) and Date Discovered	
Damage Repair-Other	Dimensions		Description (type/cause) and Date Discovered	
Debris-Exterior		Quantity of Cyds	General Description	Yes
Debris-Hazards		Quantity of Cyds	General Description	Yes
Debris-Interior		Quantity of Cyds	General Description	Yes
Debris-Personal Property/Store		Quantity of Cyds	General Description	Yes
Doors-Board	Dimensions		Width of Replacement Plywood	
Doors-Brace	Dimensions			
Doors-Repair	Dimensions		Description of Damage and Repair Needed	
Doors-Replace	Dimensions			
Doors-Security	Dimensions			
Eviction Assistance				
Handrails-Install	Dimensions		Location	
Handrails-Replace	Dimensions		Location	
Handrails-Repair	Dimensions		Location	
Hot Tub/Jacuzzi/Spa-Drain				
Hot Tub/Jacuzzi/Spa-Treat/Cover	Dimensions			
Lawn-Initial Maintenance	Dimensions		Grass Height	
Lawn-Re-cuts	Dimensions			
Lawn-Shrubs			Footage and Height	
Lawn-Tree trimming	Dimensions	Quantity	Description and Location	
Lawn-Tree Removal	Dimensions	Quantity	Description and Location	
Lock Change-Kwikset		Quantity	Description and Location	
Lock Change-Padlock/Hasp		Quantity		
Mold Treatment-Exterior		Square footage		
Mold Treatment-Interior		Square footage	Cause, Location and Discovery Date	

## HomeTracker

Pool-Cover	Dimensions	Type (in-ground/above ground)	
Pool-Cut & Remove Liner		Type (in-ground/above ground)	
Pool-Drain/Shock		Type (in-ground/above ground)	
Pool-Remove-Above Ground	Dimensions		
Roof-Patch or Repair	Dimensions		
Roof-Replace	Dimensions	Original Balance and Principal Balance	Yes
Roof-Tarp	Dimensions		
Snow Removal	Dimensions		
Sump Pump-Repair			
<b>Service</b>	<b>Dimensions</b>	<b>Quantity</b>	<b>Comments</b>
Sump Pump-Replace			
Systems Check			
Thaw Plumbing			Method
Toilets-Cleaning		Quantity	
Windows-Board	Dimensions	Quantity	Width of Replacement Plywood
Windows-Re-glaze	Dimensions	Quantity	
Windows-Brace/Lock		Quantity	
Winterization-Dry			
Winterization-Radiant			Detailed description
Winterization-Wet			Detailed description
Other			General Description